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From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE - HUMAN AND SEX TRAFFICKING LEGISLATION

Executive Summary

This memorandum is to provide the Board an update on the package of County-sponsored legislation related to human and sex trafficking, as well as an overview of 18 recently introduced human and sex trafficking-related bills of County interest. This office is working with affected County departments and other stakeholders in the analysis of the new bills and will make recommendations to the Board as necessary and will continue to keep you apprised of any developments.

Overview

As previously reported, over the last two years, there has been an effort to strengthen State law to combat human and sex trafficking, particularly of minors, and to bolster services and programs for victims of these crimes.

This effort took shape in November 2012 with overwhelming voter approval of **County-supported Proposition 35, the Californians Against Sexual Exploitation Act**. This statewide ballot initiative strengthened California law against human trafficking and the sexual exploitation of minors by: 1) increasing the length of prison sentences for those convicted of human and sex trafficking; 2) requiring convicted sex traffickers to register as sex offenders upon release from State prison; 3) requiring certain law enforcement officers to undergo training on handling human trafficking complaints and investigations; and 4) increasing criminal fines from those convicted of human trafficking and requiring those fines go towards paying for victim services.

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Since the passage of Proposition 35, there has been continued focus to identify other areas of law that should be strengthened to ensure offenders, especially those that exploit minors, are held accountable and also to provide additional support and resources for victims and victims' services.

In addition to its support of Proposition 35, on March 5, 2013, the Board adopted a motion to co-sponsor **SB 473 (Block)** which would add pimping, pandering and human trafficking to the list of felony offenses that may be used to establish a pattern of criminal gang activity pursuant to Proposition 21 of 2000 and which would make an individual eligible for enhanced criminal sentences and penalties. SB 473 is a two-year bill and currently pending on the Assembly Floor.

In addition, on September 3, 2013, the Board adopted a motion to direct the Chief Executive Officer (CEO) to add policy to enhance penalties for consumers who sexually exploit children to the County's State Legislative Agenda and directed the CEO to work with the District Attorney and the Sheriff's Department on legislative changes to increase penalties associated with consumers who pay for sex with individuals under 18 years of age.

This report provides a status update on the package of County-sponsored bills currently being pursued by the Sacramento advocates as a result of these Board actions, as well as an overview of 18 human and sex trafficking-related bills of County interest.

Status of County-Sponsored Legislation

SB 473 (Block), which as amended on September 3, 2013, would add human trafficking to the list of felony offenses that may be used to establish a pattern of criminal gang activity pursuant to Proposition 21 of 2000 and make an individual eligible for enhanced criminal sentences and penalties. SB 473 is pending consideration on the Assembly Floor.

SB 955 (Mitchell), which as introduced on February 6, 2014, would add human trafficking to the list of offenses for which interception of electronic communications (wiretaps) may be ordered. SB 955 is scheduled for hearing in the Senate Public Safety Committee on April 8, 2014.

SB 982 (Huff), which as introduced on February 11, 2014, would make it a felony punishable in a county jail for 16 months, two or three years, for individuals who seek to procure, or procure, the sexual services of a prostitute if she or he is under 18 years of age. SB 982 is pending hearing in the Senate Public Safety Committee.

SB 1388 (Lieu, Hill and Mitchell), which as introduced on February 21, 2014, would set the minimum fine for conviction of pimping of a minor at \$5,000, maintains the maximum fine of \$20,000, and would establish a fine of not less than \$1,000 but not more than \$10,000 for anyone convicted of soliciting a minor. This measure specifies that funds collected from these fines would be directed to a county victim services fund to provide support services for child sexual exploitation and child sexual abuse victim counseling services and programs for child victims of human sex trafficking. Additionally, SB 1388 would make a person who seeks to purchase or who purchases a commercial sex act guilty of a misdemeanor punishable in a county jail for at least 48 hours, but not more than six months, and by a fine of at least \$1,000 and not more than \$50,000. SB 1388 is pending referral to committee in the Senate.

Legislation of County Interest

AB 1585 (Alejo), which as introduced on February 3, 2014, would provide that if a defendant has been convicted of solicitation or prostitution and has completed any term of probation for that conviction, the defendant may petition the court for relief if the defendant can establish by clear and convincing evidence that the conviction was the result of his or her status as a victim of human trafficking. The bill would authorize a court to issue an order that: 1) sets forth a finding that the defendant was a victim of human trafficking; 2) dismisses the accusation or information against the defendant, or orders other relief; and 3) notifies the California Department of Justice that the defendant was a victim of human trafficking when he or she committed the crime and the relief that has been ordered. AB 1585 passed the Assembly Public Safety Committee by a vote of 7 to 0 on March 11, 2014.

AB 1610 (Bonta), which as introduced on February 6, 2014, would authorize a defendant or the people to apply for an order that a witness be examined conditionally when a material witness is a victim of, or witness to, a felony prosecution involving human trafficking, commercial sex acts, or forced labor or services. AB 1610 is scheduled for hearing in the Assembly Public Safety Committee on March 25, 2014.

AB 1623 (Atkins), which as introduced on February 10, 2013, would authorize, commencing January 1, 2015, any city, county, or community-based nonprofit organization to establish a multi-agency, multi-disciplinary family justice center to assist victims of domestic violence, sexual assault, elder abuse, and human trafficking. The bill also specifies additional confidentiality provisions relating to information disclosed by a victim in a family justice center and would require each family justice center to maintain a mandatory training for all staff members, volunteers, and agency professionals. AB 1623 is scheduled for hearing in the Assembly Public Safety Committee on March 25, 2014.

AB 1718 (Wagner), which as introduced on February 3, 2014, would provide that a person who solicits or who agrees to engage in or who engages in any act of prostitution in exchange for his or her payment, or offer to pay, another person money or other consideration, is guilty of disorderly conduct and would make that offense punishable by confinement in a county jail for a minimum of 48 hours and a maximum of 6 months, and by a fine of not less than \$1,000 and not more than \$10,000. If the other person is a minor 16 years of age or older, the bill would make that offense punishable by confinement in State prison for 16 months, or two or three years, and by a fine of not less than \$1,000 and not more than \$25,000. If the other person is a minor, 16 years of age or younger, the bill would make that offense punishable by confinement in State prison for 16 months, or two or three years, by a fine of not less than \$1,000 and not more than \$25,000, and would require the defendant to register as a sex offender. AB 1718 is scheduled for hearing in the Assembly Public Safety Committee on March 25, 2014.

AB 1747 (Holden), which as introduced on February 14, 2014, would state the intent of the Legislature to enact legislation to prevent human trafficking and prostitution in massage therapy establishments. AB 1747 is pending referral to committee in the Assembly.

AB 1761 (Hall), which as introduced on February 14, 2014, would state the intent of the Legislature to enact legislation to reduce the number of commercially sexually exploited minors, to protect minors from being sold on the streets, and to ensure that those minors have safe and nurturing families providing them with opportunities to thrive. AB 1761 is pending referral to committee in the Assembly.

AB 1791 (Maienschein), which as introduced on February 18, 2014, would expand the scope of the crime of human trafficking, and the Sex Offender Registration Act, to apply to a person who recruits, harbors, transports, provides, sells, purchases, or obtains, or attempts to recruit, harbor, transport, provide, sell, purchase, or obtain, a person who is a minor at the time of commission of the offense to engage in a commercial sex act. AB 1791 is pending hearing in the Assembly Public Safety Committee.

AB 1887 (Campos), which as introduced on February 19, 2014, would authorize a person to petition a court to set aside a conviction for an offense relating to solicitation or prostitution based on a finding that the person is factually innocent of the charge if the person is a victim of human trafficking and the offense is a result of the petitioner's status as a victim of that crime. In that case, the bill would require the court to order the records of the arrest to be sealed and destroyed, and to take other action appropriate under the circumstances or as justice requires. The bill would also provide that a finding

that the petitioner is factually innocent pursuant to this provision shall be admissible as evidence in a civil action brought by the petitioner, or his or her estate or representative, against an individual or entity for damages arising from the individual's or entity's alleged involvement in human trafficking. AB 1887 is scheduled for hearing in the Assembly Public Safety Committee on March 25, 2014.

AB 2157 (Morrell), which as introduced on February 20, 2014, would include human trafficking as a serious felony for which an action for damages against a defendant may be brought within 10 years from the date on which the defendant is discharged from State parole. AB 2157 is pending hearing in the Assembly Judiciary Committee.

AB 2424 (Campos), which as introduced on February 21, 2014, would amend existing law that makes it a misdemeanor to solicit or agree to engage in or engage in any act of prostitution and would limit the fine for such crime to \$10,000. AB 2424 is pending hearing in the Assembly Public Safety Committee.

SB 244 (Liu), which as amended on May 7, 2013, would provide that any adult who solicits a minor to engage in or who engages in lewd or dissolute conduct with a minor in a public place is guilty of disorderly conduct and the violation is punishable by imprisonment in a county jail for not less than 90 days. SB 244 is pending referral to committee in the Assembly.

SB 327 (Yee), which as amended on April 2, 2013, would make provisions for a writ of habeas corpus applicable to cases in which competent and substantial expert testimony relating to human trafficking and its effects was not presented to the trier of fact at the trial court proceedings and is of such substance that, had the competent and substantial expert testimony been presented, there is a reasonable probability, sufficient to undermine confidence in the judgment of conviction or sentence, that the result of the proceedings would have been different. This bill would authorize the Board of Parole Hearings to report to the Governor the names of any and all persons imprisoned in any State prison who, in its judgment, ought to have a commutation of sentence or be pardoned and set at liberty on account of evidence that the prisoner was a victim of human trafficking at the time of the offense. The bill would also require, as part of the review to determine a person's suitability for parole, the Board to give great weight to any information or evidence that the prisoner was a victim of human trafficking at the time of the offense. AB 327 is pending in the Assembly Appropriations Committee.

SB 477 (Steinberg), which as amended on January 6, 2014, would change the definition of a foreign labor contractor to mean a person who performs foreign labor contracting activity and would require a foreign labor contractor to register with the California Labor Commissioner and would impose certain conditions for registration,

including payment of specified fees. The bill would require the Commissioner to enforce and administer the registration and supervision of foreign labor contractors and would prohibit a person from knowingly entering into an agreement for the services of a foreign labor contractor that is not registered with the Commissioner.

Specifically, SB 477 would: 1) prohibit a foreign labor contractor and its agent from assessing a fee or cost to a foreign worker for foreign labor contracting activities; 2) prohibit charging a foreign worker with any costs or expenses not customarily assessed against similarly situated workers; 3) limit the amount of housing costs charged to the foreign worker to the market rate for similar housing; 4) prohibit requiring a foreign worker to pay any costs or expenses prior to commencement of work; and 5) prohibit additional requirements or changes to the terms of the contract originally provided to and signed by the foreign worker, unless the foreign worker is provided at least 48 hours to review and consider the additional requirements or changes, and would require the specific consent of the foreign worker, as provided, to each additional requirement or change. SB 477 is pending referral to committee in the Assembly.

SB 738 (Yee), which as amended on May 7, 2013, would, among other provisions: 1) provide, until January 1, 2017, that a minor may become a dependent child of the court if the minor is a victim of human trafficking, sexual exploitation, received food or shelter in exchange for sexual acts, and the parent or guardian was unable to protect the child; 2) establish a State Plan to Serve and Protect Sexually Exploited and Trafficked Minors, and require, no later than January 30, 2014, for a workgroup to be convened to develop the plan and submit to the Legislature and the Governor no later than January 30, 2015; and 3) require training for administrators, such as group home facilities, to include instruction on providing adequate care to a sexually exploited and trafficked minor in out-of-home care.

As previously reported, SB 738 was pulled from the Assembly Human Services Committee's agenda at the request of the author on July 2, 2013 and is currently pending hearing in the Committee. Senator Yee's office indicates they are working on additional amendments to SB 738 with various organizations, including the County Welfare Directors Association, to update provisions since the bill was introduced that are already underway, such as the development of the statewide workgroup.

SB 939 (Block), which as introduced on February 3, 2014, would include human trafficking, pimping, and pandering to the specified offenses to which certain jurisdictional requirements apply. These requirements specify that when more than one violation of certain specified provisions of law occurs in more than one jurisdictional

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territory, that jurisdiction for any of those offenses is in any jurisdiction where at least one of the offenses occurred if all district attorneys in counties with jurisdiction of the offenses agree to the venue. SB 939 is scheduled for hearing in the Senate Public Safety Committee on April 8, 2014.

SB 1084 (Walters), which as introduced on February 19, 2014, would add human trafficking to the definition of a serious felony and would specify that references to code sections contained in the Three Strikes law are to those statutes as they exist as of January 1, 2015. SB 1084 is pending hearing in the Senate Public Safety Committee.

SB 1085 (Walters), which as introduced on February 19, 2014, would prohibit the granting of probation to, or the suspension of a sentence for, a person who is convicted of human trafficking. SB 1085 is pending hearing in the Senate Public Safety Committee.

SB 1165 (Mitchell), which as introduced on February 20, 2014, would authorize a school district to provide dating violence, sexual abuse, and sex trafficking prevention education and would require a school district that elects to offer this instruction to ensure that each pupil receives the instruction at least once in junior high or middle school, and at least once in high school. The bill would encourage school districts to collaborate with outside consultants with expertise in dating violence, sexual abuse, and sex trafficking prevention education in order to create school safety plans to address these issues. SB 1165 is pending hearing in the Senate Committee on Education.

This office and the Sacramento advocates will continue to actively pursue the package of County-sponsored bills, and will monitor and provide ongoing reports to the Board on State and Federal human and sex trafficking legislation.

We will continue to keep you advised.

WTF:RA
MR:KA:ma

c: All Department Heads
Legislative Strategist